

HON. JAMAL N. WHITEHEAD

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

IN RE VALVE ANTITRUST
LITIGATION

No. 2:21-cv-00563-JNW

This Filing Relates to:

ALL ACTIONS

**DECLARATION OF KENNETH J.
RUBIN IN SUPPORT OF COLVIN
PLAINTIFFS' REPLY IN SUPPORT OF
AMENDED MOTION TO APPOINT
VORYS, SATER, SEYMOUR AND
PEASE LLP AS INTERIM LEAD CLASS
COUNSEL**

NOTE ON MOTION CALENDAR:
January 17, 2025

1 I, Kenneth J. Rubin, declare:

2 1. I am a partner at Vorys, Sater, Seymour and Pease LLP (“Vorys”) and serve as lead
3 counsel for Plaintiffs Sean Colvin, Susann Davis, Hope Marchionda, and Everett Stephens and the
4 putative consumer class plaintiffs (“Colvin Plaintiffs”) in the case captioned *In re Valve Antitrust*
5 *Litigation*, Case No. 2:21-cv-00563-JNW.

6 2. I respectfully submit this declaration in support of the Colvin Plaintiffs’ Reply in
7 Support of Amended Motion to Appoint Vorys, Sater, Seymour and Pease LLP as Interim Lead
8 Class Counsel. I have been actively involved in this action, am familiar with the proceedings, and
9 have personal knowledge of the matters stated herein.

10 3. Since it began representing the Colvin Plaintiffs more than four years ago, Vorys
11 has zealously advocated for consumer plaintiffs. Vorys initiated this lawsuit on behalf of
12 consumers, defended against Valve’s motion to compel arbitration, and when this Court compelled
13 arbitration and stayed the consumers’ claims, Vorys continued its work on behalf of consumers
14 via arbitration. Specifically, following the stay, Vorys made over 70,000 settlement demands to
15 Valve on behalf of consumer clients, initiated arbitration cases on behalf of individual consumers,
16 sought a process arbitrator to decide whether the arbitration clause was unconscionable, and sought
17 to allow the discovery record in the developer case to be used in arbitrations.

18 4. Since consumers and developers need substantially similar discovery from Valve
19 (because they are pursuing the same theory of the case), Vorys requested the discovery produced
20 in the developer litigation as discovery in consumer arbitrations. In a letter to the American
21 Arbitration Association dated April 19, 2024, Vorys and co-counsel wrote:

22 3. Scope of Discovery. Individual Claimants request that a Process
23 Arbitrator be appointed to determine the appropriate scope of discovery in this
24 matter. Individual Claimants will primarily request access to discovery that Valve
25 has already compiled and produced in related antitrust litigation that Valve is
26 currently a party to pending in the Federal District Court for the Western District of
Washington, captioned *Wolfire Games LLC et al v. Valve Corporation*, Case No.
2:21-cv-00563-JJC.

1 5. In 2021, Vorys, along with counsel for developers, brought a consolidated case on
2 behalf of a proposed class of all direct purchasers from Valve (consumers and developers) because
3 Valve's conduct harms all direct purchasers in the same essential way, at the same time, and for
4 the same reasons.

5 6. To the extent that Vorys' lodestar is relevant, most of Vorys' work as an executive
6 committee member for the developer class is directly applicable to the putative consumer class.

7 I declare under penalty of perjury that the foregoing is true and correct.

8 Executed on this 17th day of January, 2025, in Columbus, Ohio.

9
10
11 By: 

12 Kenneth J. Rubin
13
14
15
16
17
18
19
20
21
22
23
24
25
26